

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHRISTOPHER ANTHONY MORRESI,

Plaintiff,

vs.

DOUGLAS COUNTY
CORRECTIONAL CENTER,

Defendant.

8:21CV357

**MEMORANDUM
AND ORDER**

After the court dismissed this matter without prejudice for failure to prosecute this matter diligently and for failure to comply with the court's orders (Filings 21 & 22), the Plaintiff filed a Notice of Appeal (Filing 23). After realizing that the court mistakenly omitted some cautionary language from its Judgment, the court issued a Memorandum and Order (Filing 29) warning Plaintiff that filing a notice of appeal would make her liable for payment of the full \$505.00 appellate filing fee regardless of the outcome of her appeal. The court also granted Plaintiff 14 days within which to withdraw her Notice of Appeal if she wished to do so. The court then entered an Amended Judgment containing the cautionary language. (Filing 30.) Plaintiff has now filed a Motion to Withdraw Appeal. (Filing 31.)

Pursuant to Federal Rule of Appellate Procedure 42(a), "[b]efore an appeal has been docketed by the circuit clerk, the district court may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant's motion with notice to all parties." Here, Plaintiff, the appellant, asks the court to dismiss his appeal, there are no other served parties to this action, and no appeal has yet been docketed by the circuit clerk. Accordingly, the court will grant Plaintiff's Motion to Withdraw Appeal.

IT IS THEREFORE ORDERED:

1. Plaintiff's Motion to Withdraw Appeal (Filing 31) is granted;
2. In accordance with Rule 42(a) of the Rules of Appellate Procedure, Plaintiff's appeal is dismissed, and no appeal will be processed to the Eighth Circuit Court of Appeals.

DATED this 14th day of April, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge